IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

Con.Case(C).No. 173 of 2007(S)

AGAINST THE JUDGEMENT/ORDER IN WPC.1726/2007 Dated 16/01/2007

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PETITIONERS.

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1. THANKAMMA GEORGE, KANNADI HOUSE,
   MAMBRA ROAD, KOCHI 19.

2. RAMANI VENU GOPAL, PULLAYIDATHU HOUSE,
   MAMBRA ROAD, KOCHI 19.

3. VASAVAN, KOZHIMPILIPADATHU,
   MAMBRA ROAD, KOCHI 19.

4. BABY CELINE, THITTAYIL HOUSE,
   MAMBRA ROAD, KOCHI 19.

BY ADV. SRI.P.N.SASIDHARAN

RESPONDENTS:

MRS.BABY, PROPRIETRIX,
JOBY INDUSTRIES, RESIDINGH AT ASSARIPARAMBIL HOUSE
DHANYA JUNCTION ROAD, CHALIKKAVATTOM, VENNALA PO.

BY ADV. SRI.PROMY KAPRAKKATT

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

C.O.C.NO. 173 OF 2007

Dated this the 29th day of June 2007

JUDGMENT

The petitioners in the writ petition seek the initiation of proceedings under the Contempt of Courts Act against the 3rd respondent in the writ petition on the allegation that she has violated Annexure A1 interim direction which was passed against her ex parte. The direction was that the respondent shall not run Joby Industries unless she has a current valid licence issued by the first respondent Corporation. The petitioners allege that though the respondent was served with Annexure A1 on 22.1.2007 she has flouted the direction in Annexure A I and in total disregard of Annexure A1 has conducted M/s. Joby Industries owned by her.

2. A detailed counter affidavit has been filed by the respondent. She claims that she is having valid licence from the local authority, Cochin Corporation since 1997 onwards. Ext.R1 (a) is a copy of the above licence which was issued on 1.8.1997. According to her the licence has been renewed periodically by

paying requisite fees and she relies on Ext.R1(b) receipt to show that the licence stands renewed for the period 2006 – 07 also. The counter affidavit goes on to contend that while industries was functioning smoothly on the basis of Ext.R1(a) as renewed against Ext.R1(b), she was served with a notice from the Corporation of Cochin to produce NOC from the Kerala State Pollution Control Board and to close down the unit within two days thereof. Pursuant to the notice from the Corporation, the respondent applied to the Pollution Control Board for NOC and thereafter obtained orders from this court in W.P.(C) No.15132/2006 directing the Pollution Control Board to take appropriate decision on the respondent's application for NOC and permitting the respondent in the meanwhile to function the unit under certain directions. Senior Environmental Engineer of the Pollution Control Board acting pursuant to the direction in W.P. (C) No.15132/2006 heard the parties and passed orders on 29.7.2006 refusing consent to the respondent. Thereafter, the unit has not functioned till date. The counter affidavit gives an account of what happened subsequently also. The same being not relevant is not referred to in this judgment.

3. To the above counter affidavit a detailed reply affidavit has been filed by the petitioner reiterating their stand.

4. Heard both sides. fervent and persuasive submissions of Sri.P.N.Sasidharan notwithstanding I am unable to agree with that there is warrant for initiating action under the contempt of Courts Act against the respondent. Sri.Sasidharan would concede that as of now the respondent's unit is not functioning. The only question is whether the unit has been operated from 22.1.2007 and if so whether the same has been in violation of the direction in Annexure A1. Having regard to the facts which have been brought on record by the pleadings raised by the parties and documents placed on record by the petitioner, I have no hesitation to answer the questions in the negative and to hold that there is no warrant for initiation of contempt proceedings against the respondent.

The Contempt of Court Case will stand dropped.

PIUS C. KURIAKOSE,

JUDGE.

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